

# TENEMENT ORDINANCE FOUND VOID

## TWO FEDERAL JUDGES FOR THE HAWAII DISTRICT

(Associated Press Cable to The Star.)

WASHINGTON, D. C., Jan. 25.—A bill has been favorably reported in the Senate and has passed the House, providing that there shall be two judges of the United States District Court of Hawaii.

The bill in question is designed to divide the work placed on Judge Dole's shoulders. Owing to long continued pressure of business the court's calendar is far behind, and numerous recommendations of the appointment of an additional judge have been made.

## CALIFORNIA AND THE JAPANESE

SACRAMENTO, Jan. 25.—A petition signed by the Commercial men who recently visited Japan, against the proposed legislation hostile to Japanese, was read in the Assembly today.

SACRAMENTO, Jan. 25.—A joint resolution was introduced in the legislature today urging Congress to see that the American battleship fleet is stationed in the Pacific.

## KINGSBURY IS JUDGE

WASHINGTON, Jan. 25.—S. B. Kingsbury has been confirmed as judge of the Second Circuit Court of Hawaii, Island of Maui.

## ROOT RESIGNS

WASHINGTON, D. C., Jan. 25.—Secretary of State Root has resigned on account of his election to the United States Senate.

## TAFT FOR PANAMA

CHARLESTON, S. C., Jan. 25.—President-elect and Mrs. Taft, and twelve engineers, sailed today aboard the cruiser North Carolina for Panama where the President-elect will investigate canal conditions.

## MORE QUAKE; MESSINA HORRORS

Press Cable, Morning Service.  
REGGIO, Calabria, January 24.—This district was shaken by more severe earthquake shocks yesterday. The damaged walls of the ruins in this city fell in the shocks. The panic which the earthquake caused among the nerve-racked people was indescribable.

SMYRNA, January 25.—Another earthquake shock was felt here yesterday.

By MARCONI TRANSATLANTIC WIRELESS TELEGRAPH.  
LONDON, Jan. 2.—Of all the recent

## Walk-Over SHOES For Men

ALL THE NEW SHAPES

MAINLAND PRICES.

L.B. Kerr & Co., Ltd

ALAKEA STREET.

## FINAL REPORT OF FEDERAL GRAND JURY

URGES MORE VIGOROUS PROSECUTION OF IMPORTATION OF WOMEN CASES, AND RETURNS FIFTY-TWO INDICTMENTS—ALSO MAKES A DECLARATION IN FAVOR OF HAVING ANOTHER FEDERAL JUDGE IN HAWAII.

Judge Dole this morning received the men for immoral purposes. The final report of the Federal Grand Jury was voluminous; has been obtained and discharged them for the term. The report is as follows:

Honorable Sanford B. Dole, Judge of the United States District Court, Territory of Hawaii.

Sir:—The grand jury, empaneled, sworn and charged by you for the October A. D. 1908 term, on October 12, 1908, has concluded its duties, and begs to submit herewith its final report.

All of the cases presented by the United States District Attorney to this grand jury have been carefully investigated, and fifty-two true bills have been found and returned, and in three cases a return made of not a true bill. In returning the several indictments, the grand jury begs leave to submit that it has investigated carefully into many questions dealing with the importation and harboring of alien women for immoral purposes.

(Continued on Page Eight.)

## BICKNELL THE BUTT OF CITY SQUABBLE

NO ONE TAKES INITIATIVE TO RELIEVE DEADLOCK BETWEEN THE MAYOR AND SUPERVISORS—OP POSING EMPLOYEES FEAR POSSIBILITY OF BOTH SIDES BEING WRONG—SALARY DEMANDS IN HANDS OF MAYOR—ANOTHER MEETING FOR TONIGHT.

"It is up to the Mayor to countersign salary and expense demands now in his hands," says the Supervisors.

"Whether the Mayor countersigns or refuses to countersign salary and expense demands," say the lawyers, "it is up to the Auditor to issue warrants on the Treasurer for payment, as long as the Supervisors have passed and ordered paid such salary and expense demands."

"In either event," say the Auditor's advisors, "the Auditor will refuse to issue warrants for the Treasurer to cash, for in either event Bicknell will be made the butt of the contemplated test proceedings and, if he issues warrants or refuses to issue warrants, his action will be the basis of court proceedings."

Now it is said to be up to the Mayor to countersign each individual pay or expense demand included in the Logan general salary and expense bill, before the Auditor can issue warrants.

Mayor Fern stated this morning that he had them under consideration and that he did not know whether he would act today or later.

There is to be a meeting of the Board of Supervisors at 7:30 o'clock this evening and at that time the fight may take some shape, though at present it is uncertain whether there will be any institution of court proceedings before it is announced by the Mayor whether or not he will countersign the salary and expense demands.

The matter of mandamusing the Mayor, to compel him, if possible to countersign salary and expense demands, has been discussed by the six Republican members of the Board of Supervisors, but another move is apparent today and that is to the effect of waiting until the game gets to the Auditor's office, and leaving it for some of the people entitled or supposed to be entitled to pay for their services or alleged services to bring proceedings, in other words to leave it to the employees of the county to fight for their pay. The idea being to go ahead with the present proceedings and a test case as to which set of committees, the Mayor's or the Supervisors', shall be honored or shall be paid.

Today there are in the hands of the Mayor all the salary and expense demands which have so far been passed and ordered paid by the majority of the Board of Supervisors, for his countersignature, and all the Mayor has so far done in the matter of countersigning is to make note on the general salary and expense appropriation bill introduced by Supervisor Logan, that such bill was vetoed by the mayor, which veto the six Republicans of the Supervisors overrode.

(Continued on Page Six.)

## STAYTON INDICTED

SEVEN FEDERAL INDICTMENTS ON OPEN AND FOUR ON SECRET FILE.

Eleven indictments were returned by the Federal grand jury before Judge Dole this morning. Four of them were placed on the secret file, pending the arrest of those therein charged. The seven remaining ones are as follows: In the order of their numbering, the second being the case of John T. Stayton, who while assistant postmaster of Honolulu was caught opening official letters:

Yoshigiro Suzuki and Hini Suzuki, harboring alien woman for immoral purpose.

John T. Stayton, unlawfully opening letter intended to be delivered from postoffice.

Morimoto, endeavoring to obstruct the administration of justice. The specification is that he unlawfully and feloniously by threats and force tried to prevent one Chise, a Japanese woman, from testifying in the United States court to which she was subpoenaed as a witness, his interference going to the length of assaulting and beating her.

G. Fukushima, offering and giving a bribe to a U. S. officer. This was in offering Fred G. Noyes, a customs inspector, \$2 to dissuade him from his duty.

Natsui, violation of Edmunds Act, Aino Yoshida being her paramour. She is a married woman.

Ito, violation of Edmunds Act, Tane being his alleged partner in guilt. Both are unmarried.

Shigematsu, harboring woman for immoral purpose.

## COURT'S POWER TO MAKE RULES

On a reserved question from a First Circuit Judge, in the case of Joseph A. F. Cardozo vs. Saint Antonio Benevolent Society, the Supreme Court in an opinion by Justice Ballou declares the law as follows:

"Courts have inherent power to make rules for the transaction of their business, and assuming that the rules of the circuit courts of the Republic of Hawaii are no longer in force, the Circuit court of the first circuit, in the absence of rules for all the circuits made under R. L. 1659, has power to make its own rules."

"Under R. L. 1911 and the circuit court rule as to the liability of attorneys for costs the court has power to tax the costs of a commission as costs of court and hold the attorney of the losing party liable therefor, although such costs were advanced by the opposite party pending the termination of the case."

## FIRST SUGAR VIA MAGELLAN

Starting the American-Hawaiian Steamship Company's New York via Straits of Magellan sugar service, the S. S. Alaskan sailed on Saturday from Honolulu with 11,400 tons of sugar for New York.

The sugar thus carried is the overflow from Tehuantepec traffic and the American-Hawaiian, which handles about 235,000 tons of the 450,000 or 500,000 tons of sugar per year produced by the islands, is prepared to take about 60,000 tons to the Atlantic coast via Magellan.

H. Culman sells watches. The most accurate and durable timepieces it is possible to construct. Fort near Hotel.

WHITE GOODS SALE.  
To clear out certain lines, prices of white goods are being cut right and left at Sachs.

Best cup of coffee in the city at New England Bakery.

February 6, Tag Day, will interest everybody.

## NO MISDEMEANOR TO ERECT BUILDING IN LIMITS STATED

By a unanimous opinion the Supreme Court reverses the judgment of the Honolulu District Court, whereby M. Muranaka was fined \$20 and costs for erecting within five hundred feet of the premises of the Kaahumanu public school in Honolulu a building designed and intended to be used for a lodging and tenement house. Chief Justice Hartwell writes the opinion, of which this is the syllabus:

"A county ordinance making it a misdemeanor to construct or erect any building or structure designed or intended to be used for a lodging or tenement house within five hundred feet of any public school premises is not an exercise of power granted to boards of supervisors by Act 39 S. L. 1905, Sec. 62, Par. 5, 'To regulate by ordinance within the limits of the county all local police, sanitary and other regulations.'"

In the body of the decision the following remarks appear:  
"The defendant was found guilty and sentenced to pay a fine of \$20 and costs \$4.10, from which sentence he appealed upon points of law, claiming that the ordinance (1) is unconstitutional in depriving him of his property without due process of law, denying him equal protection of the law, in discriminating against lodging and tenement house keepers in favor of hotel keepers, and as an unreasonable and arbitrary exercise of police power, and (2) is ultra vires and void not being authorized by the County Act and conflicting with the building laws of the Territory; (3) that if the ordinance is void its application to defendant is illegal since he had been granted a permit by the superintendent of public works September 14, 1908, to construct and erect a building for the erection of which he is prosecuted, and at the date of the ordinance had proceeded with its construction and expended thereon in labor and material more than \$200."

"The contention of the county attorney is that lodging houses in the vicinity of school houses may affect injuriously the morals and manners of the children and their general welfare and therefore reasonably and properly are prohibited within five hundred feet of a school house as a lawful regulation of a business in itself legal. It is enough, he says, that enforcement of the ordinance would tend to protect the morals of such children, conduce to their welfare and comfort and in some degree protect their health; that lodging houses do not belong to the same class as hotels which are not as undesirable."

"If the ordinance had declared that keeping a lodging house within the designated area was an offense then the question whether building it for that purpose could be made a penal offense would be different from that presented under the ordinance in its present form in which the use of the building is not prohibited but merely its erection. This is not an instance of an attempt to commit an offense which may be merged in the offense if committed, or of an act done towards committing and in part execution of the intent to commit the same" (Sec. 2716 R. L.), for if there were such an offense created by the ordinance it would be "a mere preparation of the means to commit" it, "nothing being done in execution of the intent to commit the same." Sec. 2717 R. L. As using the building for the purpose named is not prohibited, erecting it if the erection were deemed to be in part execution of the purpose, could not be punished, being in itself harmless and not subject to be prohibited under police or sanitary regulation."

## STEERING ERROR CAUSED WRECK

(Associated Press Cable to The Star.)

NEW YORK, Jan. 25.—People rescued from the White Star steamship Republic, which was wrecked in collision with the American freighter Florida off the New England coast on Saturday last, arrived here today. It is stated by those among the arrivals who observed the causes of the accident that the collision was due to an error in steering on the part of the quartermaster of the S. S. Florida.

GET A BOTTLE TODAY.  
Guard the health of your family by keeping at hand a bottle of Chamberlain's Cough Remedy. It has no equal for coughs, colds and croup. For sale by all dealers, Benson, Smith & Co., agents for Hawaii.

FINE SHORT CAKE.  
Good old-fashioned Strawberry Short Cake, finest ice cream and sodas at the Alexander Young Cafe.

Manager Daleh is trying to arrange for a Coast wireless news service.



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The only baking powder made with Royal Grape Cream of Tartar  
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